

Application No. 09/970,294
Amendment dated March 16, 2005
Reply to Office Action of October 22, 2004

REMARKS

Applicant amended claims 91, 130, and 154 to further define Applicant's invention.

In the Office Action, the Examiner allowed claims 133-135, 143, and 184-202 and objected to claims 92, 114, 125, 126, 132, 147, 148, 151, 152, 155, 163, 174, 175, 181, and 182 as being dependent upon a rejected base claim, but being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Examiner rejected claims 91, 93-95, 97, 109-111, 115, 119, 121-123, 130, 131, 144-146, 149, 150, 153, 154, 156, 157, 159, 161, 162, 164, 168, 170-172, 179, 180, and 183 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,045,554 to Grooms et al. ("Grooms") in view of U.S. Patent No. 5,088,869 to Greenslade ("Greenslade"). Applicant amended independent claims 91, 130, and 154 to recite a screw for use in the human body formed of cortical bone having a concavely arcuate portion, "said concavely arcuate portion being formed from at least a portion of the medullary canal and extending along a majority of the length of said screw."

Applicant submits that neither Grooms nor Greenslade, whether alone or in proper combination, teach or suggest a screw for use in the human body formed of cortical bone from a major long bone and having the structure as recited in Applicant's claimed invention. Greenslade discloses a bone screw not for use in the human body. (See, e.g., Greenslade, col. 1, lines 32-33 (describing the problems caused by screws creating loose chips in electrical equipment) and col. 2, lines 14-15 (the screw being rotated into a workpiece)). Greenslade teaches forming concave recesses 27 on the threads of the screw by using thread rolling dies 39 against body 117. (Greenslade, col. 3, line 46 to col. 4, line 4; Figs. 1 and 5). Recesses 27 are not a portion of the medullary canal, nor do they extend along a majority of the length of the screw as

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recited in independent claims 1, 130, and 154. Accordingly, Applicant respectfully submits that the rejection of the claims under 35 U.S.C. § 103(a) as being unpatentable over Grooms in view of Greenslade has been overcome.

The Examiner rejected claims 98-101 and 160 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Grooms and Greenslade, further in view of U.S. Patent No. 6,030,162 to Huebner; rejected claims 118 and 167 under 35 U.S.C. § 103(a) as being unpatentable over Grooms and Greenslade, further in view of U.S. Patent No. 6,048,344 to Schenk; rejected claims 120 and 169 under 35 U.S.C. § 103(a) as being unpatentable over Grooms and Greenslade; and rejected claims 124, 127-129, 139-142, 173, and 176-178 under 35 U.S.C. § 103(a) as being unpatentable over Grooms and Greenslade, further in view of U.S. Patent No. 6,048,204 to Klardie et al. Applicant submits that the rejections over claims 98-101, 118, 120, 124, 127-129, 139-142, 160, 167, 169, 173, and 176-178 are rendered moot at least because they depend from an allowable independent claim, or claims dependent therefrom.

Applicant submits that independent claims 91, 130, 133, 154, 184, and 194 are patentable and that dependent claims 92-129, 131, 132, 134, 135, 139-153, 155-183, 185-193, and 195-202 dependent from one of independent claims 91, 130, 133, 154, 184, and 194, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

In view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including

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any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1066.

Respectfully submitted.

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